

AUSTIN CITY CLERK  
RECEIVED



TRV 2013061662  
7 PGS

Zoning Case No. C14-2012-0146.SH(RC)

2013 APR 24 PM 4 11

RESTRICTIVE COVENANT

OWNER: DBSI Village at Norwood LLC

ADDRESS: 12426 W. Explorer Drive, Suite 100, Boise, Idaho 83713

CONSIDERATION: Ten and No/100 Dollars (\$10.00) and other good and valuable consideration paid by the City of Austin to the Owner, the receipt and sufficiency of which is acknowledged.

PROPERTY: A 1.412 acre tract of land more or less, being a portion of Lot 5, Resubdivision of Lots 1A, 1B and 1C, Wal-Mart at Norwood Park Subdivision being more particularly described by metes and bounds in Exhibit "A" attached and incorporated into this covenant.

WHEREAS, the Owner (the "Owner", whether one or more), of the Property and the City of Austin have agreed that the Property should be impressed with certain covenant and restrictions;

NOW, THEREFORE, it is declared that the Owner of the Property, for the consideration, shall hold, sell and convey the Property, subject to the following covenants and restrictions impressed upon the Property by this restrictive covenant ("Agreement"). These covenants and restrictions shall run with the land, and shall be binding on the Owner of the Property, its heirs, successors, and assigns.

1. A site plan or building permit for the Property may not be approved, released, or issued, if the completed development or uses of the Property, considered cumulatively with all existing or previously authorized development and uses, generate traffic that exceeds the total traffic generation for the Property as specified in that certain Traffic Impact Analysis ("TIA") prepared by WHM Transportation Engineering Consultants, Inc., dated June 11, 2001, or as amended and approved by the Director of the Planning and Development Review Department. All development on the Property is subject to the recommendations contained in the memorandum from the Transportation Review Section of the Planning and Development Review Department, dated November 15, 2001. The TIA shall be kept on file at the Planning and Development Review Department.
2. If any person or entity shall violate or attempt to violate this Agreement, it shall be lawful for the City of Austin to prosecute proceedings at law or in equity against such person or entity violating or attempting to violate such Agreement, to prevent the person or entity from such actions, and to collect damages for such actions.
3. If any part of this Agreement is declared invalid, by judgment or court order, the same shall in no way affect any of the other provisions of this Agreement, and such remaining portion of this Agreement shall remain in full effect.

*Handwritten initials/signature*

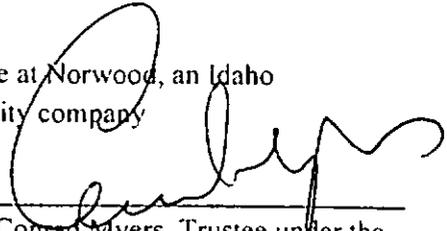
4. If at any time the City of Austin fails to enforce this Agreement, whether or not any violations of it are known, such failure shall not constitute a waiver or estoppels of the right to enforce it.
5. This Agreement may be modified, amended, or terminated only by joint action of both (a) a majority of the members of the City Council of the City of Austin, and (b) by the owner(s) of the Property, or a portion of the Property, subject to the modification, amendment or termination at the time of such modification, amendment or termination.

EXECUTED this the 28<sup>th</sup> day of MARCH, 2013.

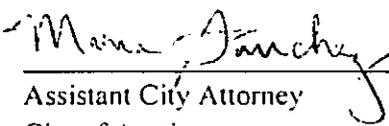
**OWNER:**

DBSI Village at Norwood, an Idaho  
limited liability company

By: \_\_\_\_\_

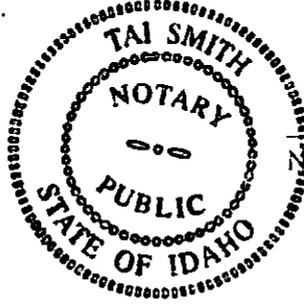
  
By: Conrad Myers, Trustee under the  
DBSI Real Estate Liquidating Trust, as  
confirmed in the Second Amended Joint  
Chapter 11 Plan of Liquidation. Case  
No. 08-12687 (PJW), United States  
Bankruptcy Court, District of  
Delaware. Its Sole Member

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Assistant City Attorney  
City of Austin

THE STATE OF IDAHO )  
 )  
COUNTY OF ADA )

This instrument was acknowledged before me on this the 28 day of March, 2013, by Conrad Myers, Trustee under the DBSI Real Estate Liquidating Trust, as confirmed in the Second Amended Joint Chapter 11 Plan of Liquidation, Case No. 08-12687 (PJW), United States Bankruptcy Court, District of Delaware for DBSI Village at Norwood LLC, an Idaho limited liability company, on behalf of said Trust.



Tai Smith  
Notary Public, State of Idaho

After Recording, Please Return to:  
City of Austin  
Law Department  
P.O. Box 1088  
Austin, Texas 78767  
Attention: J. Collins, Paralegal

1.412 ACRES  
PORTION OF LOT 5  
VILLAGE AT NORWOOD PARK

FN. NO. 12-466(MJJ)  
DECEMBER 20, 2011  
BPI JOB NO. RO1107510001

**DESCRIPTION**

OF A 1.412 ACRE TRACT OF LAND SITUATED IN THE CITY OF AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 5, RESUBDIVISION OF LOTS 1A, 1B AND 1C, WAL-MART AT NORWOOD PARK SUBDIVISION AND LOT 2, REPLAT OF NORWOOD PARK, A SUBDIVISION OF RECORD IN DOCUMENT NO. 200200096 OF THE OFFICIAL PUBLIC RECORDS OF TRAVIS COUNTY, TEXAS; SAID 1.412 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

**COMMENCING**, at a 1/2 inch iron rod found in the curving easterly right-of-way line of Norwood Park Boulevard (90' R.O.W.), being the southwesterly corner of Lot 4 of said Resubdivision of Lots 1A, 1B and 1C, Wal-Mart at Norwood Park Subdivision and Lot 2, Replat of Norwood Park and the northwesterly corner of said Lot 5;

**THENCE**, S86°18'10"E, leaving the curving easterly right-of-way line of Norwood Park Boulevard, along the common line of said Lots 4 and 5, a distance of 107.81 feet to the northwesterly corner of that certain zoning line as described in City of Austin Ordinance No. 860717-H, for the **POINT OF BEGINNING**, and northwesterly corner hereof;

**THENCE**, continuing along the common line of said Lots 4 and 5, for the northeasterly line hereof, the following four (4) courses and distances:

- 1) S86°18'10"E, a distance of 67.38 feet to a 1/2 inch iron rod found for an angle point;
- 2) S63°12'24"E, a distance of 175.30 feet to a 1/2 inch iron rod with "Doucet" cap found for an angle point;
- 3) S78°01'31"E, a distance of 42.81 feet to a 1/2 inch iron rod with "Chaparral" cap found for an angle point;
- 4) S62°26'16"E, a distance of 449.73 feet to a 1/2 inch iron rod with "Chaparral" cap found in the northwesterly line of Lot 2, Cameron Road Research Addition, a subdivision of record in Book 73, Page 60 of the Plat Records of Travis County, Texas, being the southeasterly corner of said Lot 4 and northeasterly corner of said Lot 5, for the northeasterly corner hereof;

**THENCE**, S27°31'37"W, along the common line of said Lots 2 and 5, for the southeasterly line hereof, a distance of 100.17 feet to a 1/2 inch iron rod found at the southeasterly corner of said City of Austin Ordinance No. 860717-H, for the southeasterly corner hereof;

FN 12-466(MJJ)  
DECEMBER 20, 2011  
PAGE 2 OF 2

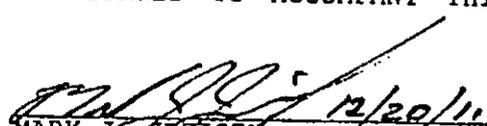
THENCE, leaving the northwesterly line of said Lot 2, over and across said Lot 5, along the southwesterly line of said zoning line, for the southwesterly line hereof, the following four (4) courses and distances:

- 1) N62°29'17"W, a distance of 460.00 feet to an angle point;
- 2) N43°17'19"W, a distance of 113.11 feet to an angle point;
- 3) S45°36'37"W, a distance of 28.65 feet to an angle point;
- 4) N44°23'23"W, a distance of 160.08 feet to the POINT OF BEGINNING, and containing 1.412 acres (61,497 sq. ft.) of land, more or less, within these metes and bounds.

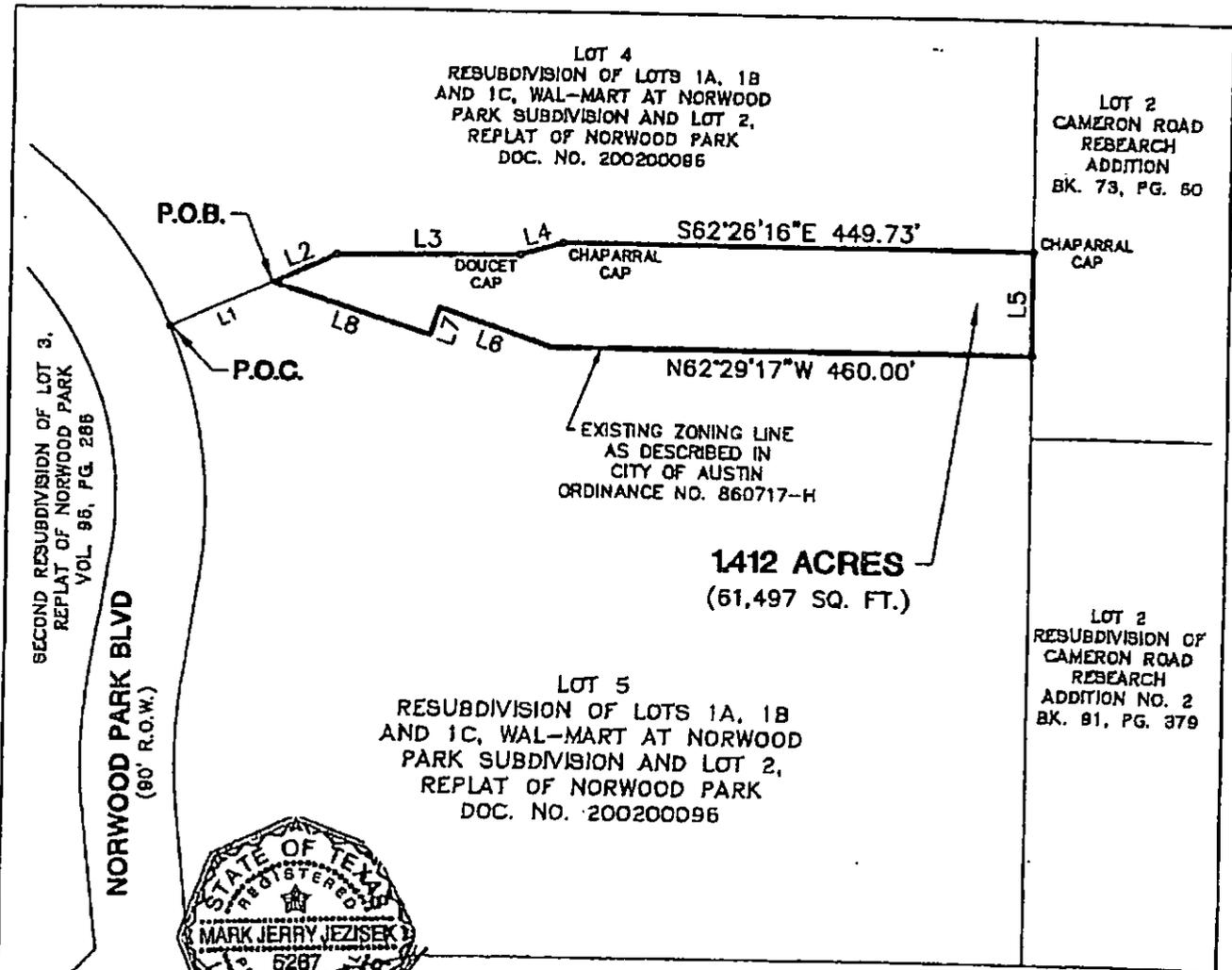
BEARING BASIS IS TEXAS STATE PLANE COORDINATE SYSTEM, CENTRAL ZONE, NAD 83(96), UTILIZING WESTERN DATA SYSTEMS CONTINUALLY OPERATING REFERENCE STATION (CORS) NETWORK.

I, MARK J. JEZISEK, A REGISTERED PROFESSIONAL LAND SURVEYOR, DO HEREBY CERTIFY THAT THE PROPERTY DESCRIBED HEREIN WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECTION AND SUPERVISION. A SURVEY EXHIBIT WAS PREPARED TO ACCOMPANY THIS FIELDNOTE DESCRIPTION.

BURY & PARTNERS, INC.  
221 WEST SIXTH ST., SUITE 600  
AUSTIN, TEXAS 78701

  
MARK J. JEZISEK  
NO. 5267  
STATE OF TEXAS





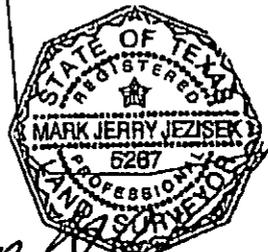
SECOND RESUBDIVISION OF LOT 3,  
REPLAT OF NORWOOD PARK  
VOL. 95, PG. 286

NORWOOD PARK BLVD  
(90' R.O.W.)

LOT 5  
RESUBDIVISION OF LOTS 1A, 1B  
AND 1C, WAL-MART AT NORWOOD  
PARK SUBDIVISION AND LOT 2,  
REPLAT OF NORWOOD PARK  
DOC. NO. 200200096

LOT 2  
CAMERON ROAD  
RESEARCH  
ADDITION  
BK. 73, PG. 80

LOT 2  
RESUBDIVISION OF  
CAMERON ROAD  
RESEARCH  
ADDITION NO. 2  
BK. 91, PG. 379



*M. J. Jezisek 12/20/11*

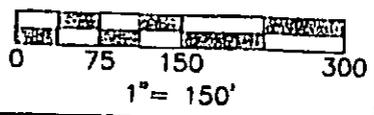
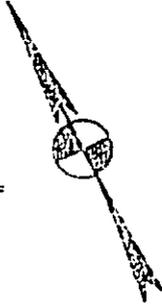
U.S. HIGHWAY 183 (R.O.W. VARIES)

LINE TABLE

NO.	BEARING	DISTANCE
L1	S86°18'10"E	107.81'
L2	S88°18'10"E	87.38'
L3	S63°12'24"E	175.30'
L4	S78°01'31"E	42.81'
L5	S27°31'37"W	100.17'
L6	N43°17'19"W	113.11'
L7	S45°36'37"W	28.65'
L8	N44°23'23"W	180.08'

LEGEND

- 1/2" IRON ROD FOUND (UNLESS OTHERWISE NOTED)
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT



**Bury+Partners**

221 East Sixth Street, Suite 630  
Austin, Texas 78701  
Tel. (512) 323-0111 Fax (512) 323-0323  
Bury+Partners, Inc. © Copyright 2012

SKETCH TO ACCOMPANY DESCRIPTION  
OF A 1.412 ACRE TRACT OF LAND SITUATED IN THE CITY OF  
AUSTIN, TRAVIS COUNTY, TEXAS, BEING A PORTION OF LOT 5,  
RESUBDIVISION OF LOTS 1A, 1B AND 1C, WAL-MART AT  
NORWOOD PARK SUBDIVISION AND LOT 2, REPLAT OF  
NORWOOD PARK, A SUBDIVISION OF RECORD IN DOCUMENT NO.  
200200096 OF THE OFFICIAL PUBLIC RECORDS OF  
TRAVIS COUNTY, TEXAS.

**LEDGESTONE  
GROUP**

H:\110473\001\110473001EX1.dwg Oct 30, 12 11:12 AM by: mlaylor

Recorders Memorandum-At the time of recordation this instrument was found to be inadequate for the best reproduction, because of illegibility, carbon or photocopy, discolored paper, etc. All blockouts, additions and changes were present at the time the instrument was filed and recorded.

**FILED AND RECORDED**

OFFICIAL PUBLIC RECORDS

*Dana DeBeauvoir*

Apr 05, 2013 03:27 PM

2013061662

SCOTTR: \$40.00

Dana DeBeauvoir, County Clerk

Travis County TEXAS